

REMARKS

Claims 1-18 are pending in this application. Claims 1, 4, 7 and 10-15 are independent claims.

By this amendment, claims 1, 4, 7, 11, 13 and 15 are amended for clarity so as to overcome the rejections under 112, 2nd paragraph.

Reconsideration in view of the above amendments and following remarks is respectfully solicited.

The Claims Satisfy The Requirements Of 35 U.S.C. §112, 1st and 2nd Paragraph

The Office Action rejects claims 1, 4, 7 and 10-15 under 35 U.S.C. §112, 1st and 2nd paragraphs. These rejections are respectfully traversed.

§112, 1st paragraph

The Examiner alleges that the added limitation “wherein the size and the position of the changeable image area is arbitrarily designated” is not described in the specification. (see Office Action, page 3). Applicant respectfully disagrees with this allegation.

Applicant respectfully submits that the above-noted limitation is clearly disclosed on at least page 18, lines 15-24 of applicant’s specification. Specifically, the present specification recites, *inter alia*, the following on page 18:

“Figure 8 shows an area specification page 34. As shown in Figure 8, in the area specification page 34 are displayed a selected image 34A represented by the selected image data set S1, a Cancel button 34B for canceling the processing, and an OK button 34C for confirming the area. In the selected image 34A is also shown an image area 34D having an aspect ratio corresponding to the LCD screen 41 of the mobile phone 4 specified in the model selection page 33. The user of the terminal 2 moves, reduces or enlarges the image area 34D in the selected image 34A displayed in the area specification page 34, and specifies the area to be used for the wallpaper.”

In other words, in the present specification it is clearly noted that it is the user that moves, reduces or enlarges the image area 34D in the selected image 34A. (see Applicant's Fig. 8). As such, it goes to follow that because the size and position of the image area is dependent upon the desires of the user, any arbitrary size and position can be realized.

Furthermore, applicant respectfully points out to the Examiner that a mere rephrasing of a passage does not constitute new matter. Accordingly, a rewording of a passage where the same meaning remains intact is permissible. *In re Anderson*, 471 F.2d 1237, 176 USPQ 331 (CCPA 1973). (see MPEP 2163.07).

Applicant submits that the above-noted limitation is merely a rephrasing of a disclosed passage regarding how the size and position of the changeable image area is made.

As such, applicant respectfully submits that the previous amendment to the claims was indeed described in the specification.

Accordingly, withdrawal of the rejection of claims 1, 4, 7 and 10-15 under 35 U.S.C. §112, 1st paragraph is respectfully solicited.

§112, 2nd paragraph

Applicant respectfully submits that the amendment to claims 1, 4, 7, 11, 13 and 15 obviates the rejection of claims 1, 4, 7 and 10-15 under 35 U.S.C. §112, 2nd paragraph.

Accordingly, withdrawal of the rejection of claim 1, 4, 7 and 10-15 under 35 U.S.C. §112, 2nd paragraph is respectfully solicited.

The Claims Define Patentable Subject Matter

The Office Action rejects:

(1) claims 1, 4, 7 and 16-18 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,684,087 to Yu et al. (hereafter Yu) in view of U.S. Patent Application Publication No.: 2002/0006804 to Mukai et al. (hereafter Mukai); and

(2) claims 2, 3, 5, 6 and 8-15 under 35 U.S.C. §103(a) as being unpatentable over Yu in view of Mukai and further in view of U.S. Patent Application Publication No. 2002/0136467 to Kinoshita (hereafter Kinoshita).

These rejections are respectfully traversed.

Applicant respectfully submits that the combination of Yu and Mukai, with or without Kinoshita, fails to teach or suggest each and every feature as set forth in the claimed invention.

In the present invention, as set forth in independent claims 1, 4 and 7, a processed image data set is generated by cutting out an area from an image represented by a selected one of the image data sets according to the changeable image area that has been specified, wherein the changeable image area is arbitrarily designated by a user while maintaining the specification of the screen of the mobile terminal.

The Examiner concedes that Yu fails to disclose that the image area is a changeable image area wherein the size and the position of the changeable image area are arbitrarily designated. (see Office Action, page 5). However, in an attempt to show this feature the Examiner imports Mukai.

Specifically, the Examiner alleges that such a feature is well known in the art as taught by Mukai's display method whereby a size of the image changes depending on the type of message being sent (i.e., Mukai's Figs. 25 and 26 where area 134 changes depending on if the voice data is transmitted, see paragraph [0148]). However, applicant respectfully submits that a close review of Mukai reveals a very distinguishable method/apparatus.

For example, in contrast with the present invention, Mukai merely discloses a display area of the monitor 113 of the mobile telephone 101 being divided into sections and pieces of guide information are displayed for respectively different communication ends. In other words, in Mukai the user 104 of the mobile telephone 101 is able to have conversations while looking at the images of the users 104a and 104b of the terminals 102a and 102b. (see Mukai, paragraph [0144]). Furthermore, in Mukai the division area 133 related to the terminal 102a that is currently transmitting voice is displayed with a size greater than that of the division area 134 related to the terminal 102b that is not transmitting voice. (Mukai, paragraph [0148]).

In other words, in Mukai the two sections on the monitor 113 are displayed in different display modes by emphasizing the area frames, differentiating the luminance or giving different sizes to the division areas, which allows the user to readily recognize the current transmission

end. However, applicant respectfully submits that this is not the same as allowing a user to arbitrarily designate the size and the position of the changeable image area.

For instance, Mukai's system changes the area frames to highlight who is speaking. Therefore, there is nothing arbitrary about making such a designation because it is based on voice transmission. Furthermore, Mukai fails to disclose that a user is responsible for changing the area frames. Instead, in Mukai the transmission end discrimination element 124 and the transmission end identifying element 125 are responsible for displaying the divided areas 133, 134 and manipulating the sizes thereof based on who is speaking. (see Mukai, paragraphs [0145] and [0156]). As such, Mukai fails to disclose allowing a user to arbitrarily designate a size and position of a changeable image area.

For at least the reasons noted above, applicant respectfully submits that the combination of Yu and Mukai fails to teach or suggest that the size and the position of a changeable image area is arbitrarily designated by a user while maintaining the specification of the screen of the mobile terminal.

Applicant also respectfully submits that Kinoshita fails to make up for the deficiencies found in Yu and Mukai.

Applicant respectfully submits that neither Yu, Mukai nor Kinoshita, taken singularly or in combination, (assuming these teachings may be combined, which applicant does not admit) teach or suggest a changeable image area that is arbitrarily designated by a user to determine size and position.

Furthermore, according to the present invention, when displaying the changeable area, the user can select a landscape orientation or a portrait orientation, so as to appropriately display the area of the image on the screen. Each of Yu, Mukai and Kinoshita are silent about such a feature. Applicant respectfully submits that it is not notoriously well known to have such a changeable area as set forth in the claimed invention. Therefore, unless the Examiner can present evidence in the form of an art rejection, other than Official Notice, that such a feature is well known as claimed, applicants respectfully request withdrawal of such a rejection.

In addition, applicant respectfully submits that the cited references are all silent about keeping the aspect ratio of the area of the image constant during changing the size of the area of the image.

To establish a *prima facie* case of Obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991). See MPEP 706.02(j).

Applicant respectfully submits that the combination of Yu and Mukai (with or without Kinoshita) fail to teach or suggest each and every feature as set forth in the claimed invention.

Applicant respectfully submits that independent claims 1, 4 and 7 are allowable over the combination of Yu and Mukai for at least the reasons noted above. Furthermore, applicant respectfully submits that independent claims 10-15 are allowable over the combination of Yu, Mukai and Kinoshita for at least the reasons noted above.

As for each of the dependent claims not particularly discussed above, these claims are also allowable for at least the reasons set forth above regarding their corresponding independent claims, and/or for the further features claimed therein.

Accordingly, withdrawal of the rejection of claims 1-18 under 35 U.S.C. §103(a) is respectfully requested.

Conclusion

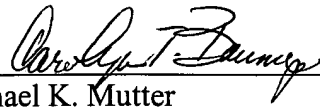
In view of the foregoing, Applicant respectfully submits that the application is in condition for allowance. Favorable reconsideration and prompt allowance are earnestly solicited.

Should the Examiner believe that anything further would be desirable to place this application in better condition for allowance, the Examiner is invited to contact Carolyn T. Baumgardner (Reg. No. 41,345) at (703) 205-8000 **to schedule a Personal Interview.**

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment from or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §1.16 or under 37 C.F.R. §1.17; particularly, the extension of time fees.

Dated: August 8, 2006

Respectfully submitted,

By  #41,345
for Michael K. Mutter
Registration No.: 29,680
BIRCH, STEWART, KOLASCH & BIRCH, LLP
8110 Gatehouse Road
Suite 100 East
P.O. Box 747
Falls Church, Virginia 22040-0747
(703) 205-8000
Attorney for Applicant